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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/888,472 | 06/25/2001 | Jeffrey Allen Jones | AUS920010403US1 | 8673 |

7590

10/28/2005

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| EXAMINER |
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NGUYEN, DUSTIN

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| ART UNIT | PAPER NUMBER |
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2154

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/888,472

Applicant(s)

JONES ET AL.

Examiner

Dustin Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-15 are presented for examination.

Response to Arguments

2. In view of the Appeal Brief filed on 08/09/2005, PROSECUTION IS HEREBY REOPENED. A non-final Office Action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobart [US Patent Application No 2002/0178255], in view of Blau [US Patent Application No 2004/0059644].

5. As per claim 1, Hobart discloses the invention substantially as claimed including a method of provide incentives for client machines to contribute resources to a peer-to-peer computer network [i.e. reward users in a peer-to-peer network for actively or passively contributing to resources] [Abstract; and paragraph 0013], the method comprising:

receiving requests for information from a plurality of client machines [i.e. request from peer] [Figure 6; paragraphs 0045 and 0047];

determining if the client machines are contributing resources to peer-to-peer sharing [i.e. incentive program whereby peers actively or passively participating are rewarded in correlation with predetermined parameters] [80-88, Figure 6; paragraphs 0013, 0047; and claims 1 and 2];
and

sending the requested information to the client machines [90, Figure 6; and paragraph 0047].

Hobart does not specifically disclose wherein priority is given to requests from clients which are contributing resources to peer-to-peer sharing.

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Blau discloses wherein priority is given to requests from clients which are contributing resources to peer-to-peer sharing [i.e. promote and give priority to high bandwidth peer] [paragraphs 0012, 0039 and 0102].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hobart and Blau because Blau's teaching of priority would allow to providing services to important clients in a more organizing manner.

6. As per claim 2, Blau discloses giving higher priority in proportion to the level of resources contributed [i.e. a function of the upload and download capability] [paragraphs 0014 and 0039].

7. As per claim 3, Hobart discloses disk space, CPU resources, memory and specified number of connecting users [paragraphs 0032-0049]. Hobart does not specifically disclose bandwidth. Blau discloses bandwidth [Abstract; and paragraph 0011]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hobart and Blau because Blau's teaching of bandwidth would allow to optimize of the network peers resources utilization and maximize of the rewards to the user [Blau, paragraph 0011].

8. As per claim 4, it is rejected for similar reasons as stated above in claims 1 and 2.

9. As per claim 5, it is rejected for similar reasons as stated above in claim 3.

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10. As per claim 6, it is rejected for similar reasons as stated above in claim 1.
11. As per claim 7, it is rejected for similar reasons as stated above in claim 2.
12. As per claim 8, it is rejected for similar reasons as stated above in claim 3.
13. As per claim 9, it is rejected for similar reasons as stated above in claims 1 and 2.
14. As per claim 10, it is rejected for similar reasons as stated above in claim 3.
15. As per claim 11, it is rejected for similar reasons as stated above in claim 1. Furthermore, Blau discloses a register which maintains a queue [paragraph 0014].
16. As per claim 12, it is rejected for similar reasons as stated above in claim 2.
17. As per claim 13, it is rejected for similar reasons as stated above in claim 3.
18. As per claims 14 and 15, they are rejected for similar reasons as stated above in claims 1-3.

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19. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

20. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached at (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Dustin Nguyen

Examiner

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